

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION

**FILED**  
DEC 05 2016  
Clerk, U.S. District Court  
District Of Montana  
Missoula

ROBIN ASHTON,

Plaintiff,

vs.

STATE OF MONTANA, OFFICE OF  
DISCIPLINARY COUNSEL, JUDICIAL  
STANDARDS COMMITTEE, MONTANA  
MEDICAL LEGAL PANEL, DAWN APPLE,  
DIANE TOMKINS, JEAN BRANSCUM,  
DOE DEFENDANTS #1-45,

Defendants.

CV 15-96-M-DLC-JCL

ORDER

This matter was dismissed with prejudice and judgment was entered on January 5, 2016. (Docs. 10, 11.) An Order denying Ms. Ashton's motion for reconsideration was issued November 2, 2016. (Doc. 16.) Ms. Ashton filed a Notice of Appeal on November 9, 2016. (Doc. 17.) The matter was referred back to this Court on December 5, 2016 for the limited purpose of determining whether in forma pauperis status should continue for the appeal or whether the appeal is frivolous or taken in bad faith. (Doc. 19.)

The Federal Rules of Appellate Procedure provide as follows:

[A] party who was permitted to proceed in forma pauperis in the district-court action, or who was determined to be financially unable

to obtain an adequate defense in a criminal case, may proceed on appeal in forma pauperis without further authorization, unless:

(A) the district court-before or after the notice of appeal is filed-certifies that the appeal is not taken in good faith or finds that the party is not otherwise entitled to proceed in forma pauperis and states in writing its reasons for the certification or finding;

Fed. R. App. P. 24(a)(3)(A).

Analogously, 28 U.S.C. § 1915(a)(3) provides “[a]n appeal may not be taken in forma pauperis if the trial court certifies in writing that it is not taken in good faith.” The good faith standard is an objective one. *See Coppedge v. United States*, 369 U.S. 438, 445 (1962). A plaintiff satisfies the “good faith” requirement if he or she seeks review of any issue that is “not frivolous.” *Gardner v. Pogue*, 558 F.2d 548, 551 (9th Cir. 1977) (*quoting Coppedge*, 369 U.S. at 445). For purposes of section 1915, an appeal is frivolous if it lacks any arguable basis in law or fact. *Neitzke v. Williams*, 490 U.S. 319, 325, 327 (1989); *Franklin v. Murphy*, 745 F.2d 1221, 1225 (9th Cir. 1984).

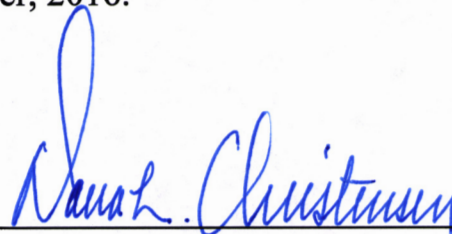
The record makes plain the instant appeal would be frivolous as it lacks arguable substance in law or fact. Any appeal of this decision would be frivolous.

IT IS HEREBY ORDERED THAT:

Ms. Ashton’s appeal is frivolous and is not taken in good faith. Her in

forma pauperis status is therefore REVOKED.

Dated this 5<sup>th</sup> day of December, 2016.

A handwritten signature in blue ink, reading "Dana L. Christensen", is written over a horizontal line.

Dana L. Christensen, Chief Judge  
United States District Court